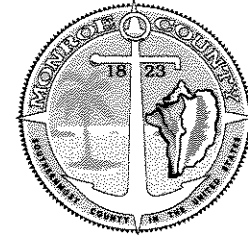


**MEMORANDUM**  
**MONROE COUNTY PLANNING DEPARTMENT**

*We strive to be caring, professional and fair*



To: Development Review Committee

From: Julianne Thomas, Planner

Date: March 14, 2007

Meeting Date: March 19, 2007

Through: Aref Joulani, Senior Director of Planning & Environmental Resources  
Donna Bosold, Planning Coordinator  
Heather Beckmann, Principal Planner

RE: *Kings Pointe Marina Development Agreement*  
*Oceanside Marina aka Kings Pointe Marina, LLC is located at approximate mile*  
*marker 4 on Stock Island having Real Estate Numbers: 00127440.000100 through*  
*00127420.002500, 00127420.000601 through 00127420.000675, 00127430.000101*  
*through 00127430.000211, 00127420.000000 and 00127420.000100.*

**I. REQUEST:**

- A. Proposal: Kings Pointe Marina, LLC (KPM) has submitted a development agreement and amendment to a major conditional use application in order to redevelop an existing marina.

The applicant proposed in an amendment to a major conditional use to construct 32 additional attached market rate units, two (2) new boat barns (53,040 ft<sup>2</sup>), a retail, dock masters office and bait house which includes shower facilities (2,625 ft<sup>2</sup>) and eight (8) wet slips in a gated marina. In addition, the applicant is proposing that the existing restaurant be converted into a private club.

This development agreement is to provide approval from the Board of County Commissioners (BOCC) for vacation rental use of attached units in the Mixed Use (MU) land use district.

B. Location & Background Information:

1. Size of Site: approx. 11.16 acres,
2. Land use District: Mixed Use (MU)
3. Future Land Use Designation: Mixed Use/Commercial (MC)
4. Proposed Tier Designation: Tier III
5. Existing on Site: 22 permanent units, boat storage, restaurant, store, docks, charter boat services, 32 live-aboards and a boat ramp

1  
2 **II. PROCESS:**  
3

4 The Applicant has submitted an amendment to a major conditional use pursuant to  
5 Monroe County Code (MCC) §9.5-69 and a development agreement pursuant to  
6 MCC §9.5-101 & 102. County staff has determined that the development agreement  
7 and the amendment to a conditional use shall be heard at the same Development  
8 Review Committee meeting.  
9

10 Following the DRC meeting, the Development Agreement will be heard by the  
11 Planning Commission and the Board of County Commissioners (BOCC). After the  
12 BOCC has acted on the Development Agreement, the amendment to the major  
13 conditional use permit will be heard by the Planning Commission.  
14

15 **III. REVIEW OF APPLICATION:**  
16

17 **Factual Clarifications & Conflicts with the Land Development Regulations**

- 18 ❖ Paragraph 1 of the Preamble states that KPM owns three (3) parcels which  
19 encompass 9.46 acres of upland. The Property Appraiser shows ownership of  
20 the following parcels:

- 21  
22           ○ RE 00127420.000000           7.58 Acres upland  
23           ○ RE 00127420.000100           0.96 Acres upland  
24           ○ Upland total:               8.54 Acres upland  
25

26 Kings Pointe is also listed as the owner of five (5) condominium units at the  
27 Marina.  
28

- 29 ❖ Paragraph 5 of the Preamble omits that there are live-aboard and charter  
30 facilities on site.  
31

- 32 ❖ Paragraph 6 of the Preamble and §II.C state that development on the property  
33 will be brought into compliance with the setback, open space, and bufferyard  
34 provisions of the County's LDRs to the maximum extent practicable.  
35

- 36           ○ The variances requested in the conditional use permit can be resolved  
37 pursuant to the MCC and do not need to be part of the development  
38 agreement  
39           ○ The applicant has requested the following variances as part of their  
40 Amendment to a major conditional use.  
41

- 42 ❖ Paragraph 8 of the Preamble states that a 380 agreement the County, DCA and  
43 the Overseas Redevelopment Company (ORC) allows transfer of 32 market rate  
44 unit ROGO exemptions as-of-right inclusive of development rights.  
45

- 46           ○ The 380 agreement does associate certain rights with the 32 "ROGO  
47 Units" that are transferable as market rate from ORC. These rights were  
48 clarified in a memorandum dated March 10, 2007 from Susan Grimsley,

Assistant County Attorney. The term ROGO Unit was determined to include 32 TREs as well as TDRs.

- Although the MCC would not allow development rights to be transferred from the ORC site which has a land use designation of Urban Residential (UR) to the Kings Pointe site which has a land use designation of Mixed Use (MU), the County Attorney has determined that pursuant to the 380 signed by ORC, Monroe County and DCA, these ROGO exemptions with development rights can be transferred from the UR district to the MU district.
- It is a condition in the 380 Agreement that the ORC site must have a building permit before the ROGO exemptions can be transferred pursuant to the terms of the 380 agreement. The County Attorney's office has determined that this means that the ORC site must have a building permit for employee housing units prior to the transfer of the units.
- ❖ Paragraph 11 states that transferring the 32 ROGO units to the KPM parcel satisfy the requirement that redevelopment not increase hurricane evacuation time pursuant to MCC §9.5-120.4 (b)(d).
  - The reference to this section should be MCC §9.5-120.4(d).
  - This section has additional requirements which have not been satisfied by the applicant.
    - This statement must be evaluated as true by the Monroe County Traffic Consultant
- ❖ §II.D. and §IV.D.7 state that the transfer of the thirty-two (32) ROGO exemptions shall be accomplished by adoption of this Agreement.
  - This transfer can be accomplished via a minor conditional use application and under the terms of the 380 Agreement. This transfer does not need to be part of the Development Agreement.
  - The ROGO exemptions are tracked with a unique identifier to ensure that ROGO exemptions are not used more than once. The units at the ORC site have been assigned numbers A-0267 to A-0298.
  - Under the terms of the 380, the ORC site must have a building permit before the ROGO exemptions can be transferred. Any transfer prior to this site having a building permit will violate that 380 Agreement.
- ❖ §IV.D heading is Permitted Uses, Phasing, and Affordable Housing. The section does not mention or provide for affordable housing.
- ❖ §IV.D.3 does not state that vacation rental of attached units in the MU land use district is not permitted. Vacation rental of detached homes in the MU land use district is permitted as-of-right §9.5-248(a)(13) as long as the conditions for a

1 special vacation rental permit are met. The Board of County Commissioners  
2 shall determine whether vacation rental use of attached units in the MU land use  
3 district shall be permitted.  
4

5 **IV. RECOMMENDED CHANGES:**  
6

7 Staff recommends that the Development Agreement be amended to reflect the  
8 following:  
9

- 10 A. Paragraph 1 of the preamble shall include RE numbers and actual upland area;  
11 and  
12  
13 B. Paragraph 5 of the preamble shall include that liveaboards and charter boat  
14 service exist as part of the Kings Pointe site; and  
15  
16 C. Paragraph 6 of the preamble and §II.C shall be amended to insert the word “and”  
17 between runoff and upgrading and delete “and bringing development into  
18 compliance with the setback, open space, and bufferyard provision of the County’s  
19 LDRs to the maximum extent practicable”; and  
20  
21 D. Paragraph 7 of the preamble shall be deleted; and  
22  
23 E. Paragraph 8 of the preamble, §II.D. and §IV.D.7 shall include that the ORC site  
24 shall have a building permit for the employee housing units prior to the transfer of  
25 any ROGO Units; and  
26  
27 F. Paragraph 8 of the preamble shall state that upon receipt of a building permit for  
28 the ORC site, Kings Pointe will initiate the Minor Conditional Use process to  
29 receive the 32 ROGO exemptions and delete all reference to the transfer  
30 occurring as part of this agreement; and  
31  
32 G. Paragraph 11 of the preamble shall be deleted; and  
33  
34 H. Paragraph 12 of the preamble shall be deleted; and  
35  
36 I. §II. B & D shall be deleted; and  
37  
38 J. A new paragraph or paragraphs shall be added to Section II to state that the  
39 purpose of the agreement is to provide for approval of vacation rental use of  
40 attached units in a Mixed Use land use district; and  
41  
42 K. §IV.D heading shall be amended to Permitted Uses  
43  
44 L. §IV.D.1 shall be deleted, and the remaining paragraphs numbered sequentially  
45 beginning with number one (1); and  
46

- 1 M. §IV.D.3 shall state that vacation rental of attached units in the MU land use  
2 district is not permitted but shall be allowed pursuant to this agreement so long  
3 as the conditions listed in MCC §9.5-534 are met; and  
4
- 5 N. §IV.D.6 shall be deleted. The proposed project meets the density and intensity  
6 provisions required by the MCC; and  
7
- 8 O. §IV.D.7 shall state that upon receipt of a building permit for employee housing  
9 units at the ORC site, Kings Pointe will initiate the Minor Conditional Use  
10 process to receive the 32 ROGO exemptions and delete all reference to the  
11 transfer occurring as part of this agreement; and  
12
- 13 P. §IV.D.8 shall include that Kings Pointe will initiate the Minor Conditional Use  
14 process to assign unique identifiers in order to be able to transfer excess NROGO  
15 pursuant to the MCC and provided that the non-residential floor area has been  
16 lawfully established or this paragraph can be deleted as this can be accomplished  
17 under the Monroe County Code.  
18

### 19 **III. RECOMMENDATIONS**

20

- 21 A. Staff recommends that the Development Review Committee recommend approval  
22 to the Planning Commission if the above changes are made.  
23